

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

<p>Timothy Leon Marsh,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>Warden Padula, Lee Correctional Institution; and Mr. Henry McMaster, Attorney General of South Carolina,</p> <p style="text-align: center;">Respondents.</p> <p>_____</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>C/A No. 6:06-3164-CMC-WMC</p> <p>OPINION AND ORDER</p>
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In this action, the *pro se* Petitioner attempts to seek a writ of mandamus against Defendants. Petitioner is an inmate at Lee Correctional Institution of the South Carolina Department of Corrections. Petitioner requests that his life sentence be vacated and that he be released and that the district court compel various actions by the South Carolina State Courts.

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge William M. Catoe.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the

recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

On December 1, 2006, the Magistrate Judge issued a Report recommending that the Petition be dismissed without prejudice and without issuance or service of process. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner has filed no objections and the time for doing so has expired.

After reviewing the Petition, the record, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that this action is **DISMISSED** *without prejudice and without issuance or service of process*.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 24, 2007